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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,743	03/19/2001	Philip J. Busardo	7000-058	8859

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EXAMINER

HAROLD, JEFFEREY F

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/811,743

Applicant(s)

BUSARDO, PHILIP J.

Examiner

Jefferey F. Harold

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 12-20 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 11, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The references listed in the Information Disclosure Statement submitted on March 19, 2001, have been considered by the examiner (see attached PTO-1449).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. ***Claims 1-3, 6-10, 12-20 and 23-25*** are rejected under 35 U.S.C. 102(e) as being anticipated by Lin et al. (United States Patent 6,366,791), hereinafter referenced as Lin.

Regarding **claim 1**, Lin discloses a system and method for providing a musical ringing tone on a mobile station. In addition Lin discloses a process to provide for caller identification using telephony ring signals consisting of: receiving a telephone number of an expected caller, wherein the B-number represents a telephone number stored in memory of a previously dialed number and thus an expected caller; identifying the musical tone stored in memory associated with the stored number of the expected caller, which reads on claimed "receiving identification of an audio file to play as telephony ring signal at a telephony device for an incoming call originating from the expected caller"; inherently creating indicia associating the telephone number of the

expected caller with the musical ring tone; inherently sending the indicia associating the telephone number of the expected caller with the audio file to the telephony device; wherein the mobile station, which reads on claimed "telephony device", will play the musical ringing tone as the telephone ring signal upon receiving the incoming call from the expected caller, as disclosed at column 5, lines 3-51.

Regarding **claim 2**, Lin discloses everything claimed as applied above (see claim 1), in addition Lin inherently discloses receiving a telephone number of the telephony device.

Regarding **claim 3**, Lin discloses everything claimed as applied above (see claim 1), in addition Lin discloses sending audio file to the telephony device as disclosed at column 5, lines 3-51.

Regarding **claim 6**, Lin discloses everything claimed as applied above (see claim 1), in addition Lin discloses receiving a second telephone number of a second expected caller; receiving identification of a second musical ringing tone to play as the telephony ring signal for the incoming call originating from the second expected caller; wherein the creating step further creates the indicia to associate the second telephone number of the second expected caller with the second audio file, as disclosed at column 5, lines 3-51.

Regarding **claim 7**, Lin discloses everything claimed as applied above (see claim 1), in addition Lin discloses wherein the indicia associating the telephone number of the expected caller with musical ringing tone inherently consists of a file readable by the telephone device, as disclosed at column 5, lines 3-51.

Regarding **claim 8**, Lin discloses everything claimed as applied above (see claim 1), in addition Lin discloses providing a web interface accessible by a web browser wherein the telephone number of the expected caller and the identification of the musical ringing tone are received via the web interface using the web browser, as disclosed at column 3, lines 21-65 and exhibited in figure 2.

Regarding **claim 9**, Lin discloses everything claimed as applied above (see claim 1), in addition Lin discloses generating a profile associating a unique audio file with each of a plurality of telephone numbers of additional expected callers for the telephony device, as disclosed at column 5, lines 3-51.

Regarding **claim 10**, Lin discloses everything claimed as applied above (see claim 9), in addition Lin discloses generating a second profile associating a unique audio file with each of a plurality of telephone numbers of additional expected caller for a second telephony device, as disclosed at column 5, lines 3-51.

Regarding **claims 12-20 and 23-25**, they are interpreted and thus rejected for the reasons set forth above in the rejection of claims 1-3 and 6-10.

***Allowable Subject Matter***

3. **Claims 4, 5, 11, 21 and 22** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

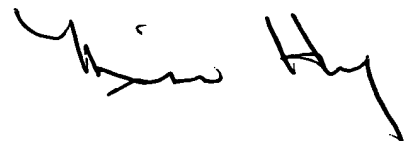
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F. Harold whose telephone number is (703) 306-5836. The examiner can normally be reached on Monday-Friday 9:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4800.



JFH  
November 20, 2003



MINSUN OH HARVEY  
PRIMARY EXAMINER